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ATTORNEY FOR APPELLANT:

MARK L. COX
LaFuze, Jordan & Cox
Richmond, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

GEORGE P. SHERMAN
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

MARK A. JONES,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 89A05-0608-CR-469
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE WAYNE SUPERIOR COURT
The Honorable P. Thomas Snow, Judge
Cause No. 89D01-0308-FC-30

June 7, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Mark A. Jones (“Jones”) was convicted in Wayne Superior Court in two separate causes of intimidation and five counts of forgery. The sentences for those convictions were ordered to be served consecutive to each other. Jones appeals and argues that the trial court abused its discretion when it ordered consecutive sentences. We affirm.

Facts and Procedural History

On August 20, 2003, Jones was charged with five counts of Class C felony forgery under cause number 89D01-0308-FC-30 (“FC-30”). On February 26, 2004, Jones was charged with Class D felony intimidation under cause number 89D01-0402-FD-019 (“FD-19”). Jones pleaded guilty to intimidation, and on August 24, 2005, he was sentenced to serve thirty months in the Department of Correction.

At the sentencing hearing for the intimidation conviction, Jones stated that he had signed a Joint Sentence Recommendation in cause number FC-30. Therefore, the trial court agreed to postpone its ruling on whether his thirty-month sentence would be served concurrently or consecutively to the sentence imposed under cause number FC-30. The court’s sentencing order in cause FC-19 also provided: “In fairness to the defendant, the court will, therefore, allow him thirty (30) days from the final Order which will enter in FC-30 to file any appeal regarding [] the sentence he receives this date in this cause number.” Appellant’s FC-19 App. p. 33.

Jones then pleaded guilty to five counts of forgery in FC-30. A sentencing hearing was held on July 18, 2006, and the trial court ordered Jones to serve concurrent terms of four years for each forgery conviction. The court ordered supplemental briefing on whether the sentences in cause numbers FC-19 and FC-30 should be served concurrently

or consecutively and took the matter under advisement. On July 27, 2006, the court ordered the sentences to be served consecutive to each other.

Jones filed a notice of appeal under both cause numbers. The State moved to consolidate the appeals. Our court granted the motion in part and ordered Jones's appeals to be assigned to the same writing panel of judges.

Discussion and Decision

"The decision to impose consecutive sentences is generally within the trial court's discretion." Shafer v. State, 856 N.E.2d 752, 756 (Ind. Ct. App. 2006), trans. denied.

Indiana Code section 35-50-1-2(c) provides in pertinent part:

Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the: (1) aggravating circumstances in IC 35-38-1-7.1(a); and (2) mitigating circumstances in IC 35-38-1-7.1(b); in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time.

Ind. Code § 35-50-1-2(c) (2004 & Supp. 2006).

"To impose consecutive sentences, a trial court must find at least one aggravating circumstance." Plummer v. State, 851 N.E.2d 387, 390 (Ind. Ct. App. 2006) (citations omitted). When a trial court acts within its discretion in imposing consecutive sentences, the court must explain its reasons for doing so by 1) identifying all significant aggravating and mitigating circumstances; 2) stating the specific facts and reasons that lead the court to find the existence of each circumstance; and, 3) demonstrating that the mitigating and aggravating circumstances have been evaluated and balanced in determining the sentence. Id.

Jones argues that the trial court abused its discretion when it ordered his sentences in FC-19 and FC-30 to be served consecutive to each other. He asserts that the court should have imposed concurrent sentences because of the following mitigating circumstances: his remorse and his participation in anger management, Bible study, and “emergency” courses during his incarceration. The trial court considered these circumstances in imposing its sentence in FC-19. See FC-19 Tr. p. 33. It was within the trial court’s discretion to weigh the significance of these mitigating circumstances, and the court was not required to place the same value on the mitigating circumstances as does Jones. See Plummer, 851 N.E.2d at 391.

The trial court gave the following reasons for ordering the sentences in FC-19 and FC-30 to be served consecutive to each other:

In support of exercising its discretion regarding these consecutive sentencings, the court notes that two (2) separate and distinct criminal activities occurred and, therefore, the defendant should receive two (2) separate and distinct consequences for his criminal behavior. Additionally, the court notes the defendant’s lengthy criminal history as additional justification for ordering consecutive sentences herein.

Appellant’s FC-19 App. p. 62. Jones’s prior criminal history consists of misdemeanor reckless driving, forgery and robbery convictions in Ohio, a 2002 forgery conviction in Indiana, and attempted escape. Id. at 61-62.

The trial court acted within its discretion when it imposed consecutive sentences for the reason that two separate crimes were committed. “The basis for the gross impact that consecutive sentences may have is the moral principle that each separate and distinct criminal act deserves a separately experienced punishment.” Hart v. State, 829 N.E.2d 541, 545 (Ind. Ct. App. 2005) (citing Mitchem v. State, 685 N.E.2d 671, 680 (Ind.

1997)). Moreover, Jones's criminal history supports the trial court's decision to impose consecutive sentences. See Mathews v. State, 849 N.E.2d 578, 589 (Ind. 2006) ("[E]ven a single aggravating circumstance may support the imposition of consecutive sentences.").

Affirmed.

DARDEN, J., and KIRSCH, J., concur.